IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 10TH AUGUST 2007 / 19TH SRAVANA 1929

WP(C).No. 10583 of 2006(R)

PETITIONER:

M.M.DEEPA, ADVOCATE, KANNUR.

BY ADV. SRI.KALEESWARAM RAJ

RESPONDENTS:

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1. THE CONSUMER DISPUTES REDRESSAL FORUM,
KANNUR.

2. K.SAKUNTHALA, PRESIDENT,
CONSUMER DISPUTES REDRESSAL FORUM, KANNUR.

* 3. SAJEEV JOSEPH, MEMBER,
CONSUMER DISPUTES REDRESSAL FORUM, KANNUR
(NOW RESIGNED).

* THE ADDRESS OF THE THIRD RESPONDENT IS CORRECTED BY ADDING 'NOW RESIGNED' AFTER THE PRESENT ADDRESS OF THE 3RD RESPONDENT BY FURTHER ADDING BENEATH THE SAME,

SAJEEV.P., S/O. JOSEPH,
ANAND BHAVAN, MUNDALUR.P.O.,
ULIKKAL, THALASSERY, KANNUR DISTRICT AS PER ORDER DTD.5/7/06 IN IA NO.8772/06.

4. K.RAJESWARY, MEMBER,
CONSUMER DISPUTES REDRESSAL FORUM, KANNUR.

5. STATE OF KERALA, REP. BY THE SECRETARY
TO GOVERNMENT, DEPARTMENT OF CIVIL SUPPLIES,
SECRETARIAT, THIRUVANANTHAPURAM.

6. THE CHIEF SECRETARY,
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.

7. THE REGISTRAR,
HIGH COURT OF KERALA, ERNAKULAM.

BY GOVERNMENT PLEADER SRI.M.R.SABU.
SRI.KKM.SHERIF
SRI.P.M.KUNJIMOIDEENKUTTY
SRI.LAL K.JOSEPH
SRI.A.A.ZIYAD RAHMAN
SRI.N.SUKUMARAN
SRI.G.BENO

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX (WP(C) NO.10583 OF 2006)

PETITIONER'S EXHIBITS:

Ext.P1: Copy of the judgment dtd.23.12.05 in WP(C) 28309/05.

Ext.P2: Copy of the representation dtd.29.12.05 before R5.

Ext.P3: Copy of the representation dtd.29.12.05 before R6.

Ext.P4: Copy of the representation dtd.29.12.05 before the Secretary, Bar Association, Kannur.

Ext.P5: Copy of the representation filed before the Registrar, High Court of Kerala.

Ext.P6: Copy of the memorandum dtd.11.1.2006 filed by the Bar Association.

Ext.P7: Copy of the affidavit dtd.15.2.2006.

Ext.P8: Copy of the order dtd.16.2.06.

Ext.P9: Copy of the order dtd. 8.3.2006 in WP(C) No.6847 of 2006.

Ext.P10: Copy of representation dtd.16.2.2005 filed by the petitioner.

-True Copy-

P.A.to Judge.

S. SIRI JAGAN, J.

WP(C) NO. 10583 OF 2006 - R

Dated this the 10th day of August, 2007

J U D G M E N T

The petitioner, who is an Advocate appearing for the Government in O.P.No.196 of 2002 before the Consumer Disputes Redressal Forum, Kannur, has approached this Court with this writ petition aggrieved by certain remarks made by the forum against the petitioner's conduct as an Advocate. The petitioner submits that not only is the observation without any basis, it was absolutely not necessary for the forum to make such comments for disposing of the case at hand. Therefore, the petitioner seeks the following reliefs:-

> "i) to issue a writ of certiorari or other appropriate writ or order quashing and expunging the following disparaging remarks in Ext.P8:-
> Remarks sought to be expunged:-
>
> > "We are sorry to say that the counsel who has 10 years experience even does not know who has to file an affidavit"
> >
> > ----------
> > Even then the fundamental principle is that the parties may not suffer for the ignorance of the counsel. They will not

deny justice for the same."

ii) to issue a writ of Quo warranto calling upon respondents 2 to 4 to show cause as to under what authority they are holding the post of President and Members of the Public Office namely, the Consumer Disputes Redressal forum, Kannur by disregarding the spirit and content of Annexure I judgment and repeating the remarks similar to those expunged in Annexure I and by challenging the authority of this Hon'ble Court;

iii) to issue a writ of mandamus directing respondents 5 and 6 to remove respondents 2,3 and 4 from the public office namely the office of the Consumer Disputes Redressal Forum, Kannur by invoking power under Rule 10 of the Consumer Protection Rules, 1998 (Kerala);

iv) to issue a writ of mandamus directing the respondents 5 and 6 to take appropriate action against the respondents 2 to 4;

v) to declare that the conduct of the respondents 2 to 4 in issuing Ext.P8 is highly irregular, improper and unsuitable;

vi) to issue a writ of mandamus directing the respondents 2, 3 and 4 to pay the cost of this litigation to the petitioner and to pay adequate compensation to the petitioner, as determined by this Hon'ble Court;"

2. I have directed the fifth respondent to conduct an enquiry in the matter and file a report. A report has been filed in which the fifth respondent has

stated that it was not necessary for the forum to make such remarks in the order. The fifth respondent further stated that since the term of the President expires on 13.8.2007 and since the removal of the President would take a prolonged procedure, the Government do not intend to go ahead with such an action at this stage and the Government intends to intimate its displeasure about the conduct of the President and Members of the C.D.R.F. in having made such disparaging remarks against the petitioner in this writ petition.

3. Pursuant to notice issued, respondent Nos.2 and 4 have entered appearance. Now, the counsel for the respondents 2 and 4 submits that they are sorry for having made such remarks and accepts their mistake in having made such disparaging remarks. In this connection, it may also be noted that the very same forum had earlier made similar disparaging remarks against the petitioner and this Court had, by Ext.P1 judgment, held that, it was not proper on the part of the forum to make such remarks against the Advocate and

had directed expunging of such remarks.

4. In view of the same, I accept the expression of regret made by the second and fourth respondents and dispose of the writ petition with the following directions:-

The following observations made by the C.D.R.F. in Ext.P8 order would stand expunged:-

> **".....In the affidavit there is no such reason as the affidavit is filed by the counsel who was present on the date when the case was posted for taking evidence. we are sorry to say that the counsel who has 10 years experience even does not know who has to file an affidavit....."**
>
> **"Even then the fundamental principle is that the parties may not suffer for the ignorance of the counsel."**

Since the second and fourth respondents have expressed regret for having made such remarks, further proceedings against them in the matter are dropped.

S. SIRI JAGAN,
Judge

Mbs/

S.SIRI JAGAN, J

W.P.(C) NO. OF 2001

J U D G M E N T

DATED:01-06-2007